

MANDATE

ORIGINAL

ORIGINAL

UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT
Thurgood Marshall U.S. Courthouse at Foley Square 40 Centre Street, New York, NY 10007 Telephone: 212-857-8500

1:08-cv-09797-VM

MOTION INFORMATION STATEMENT

Caption [use short title]

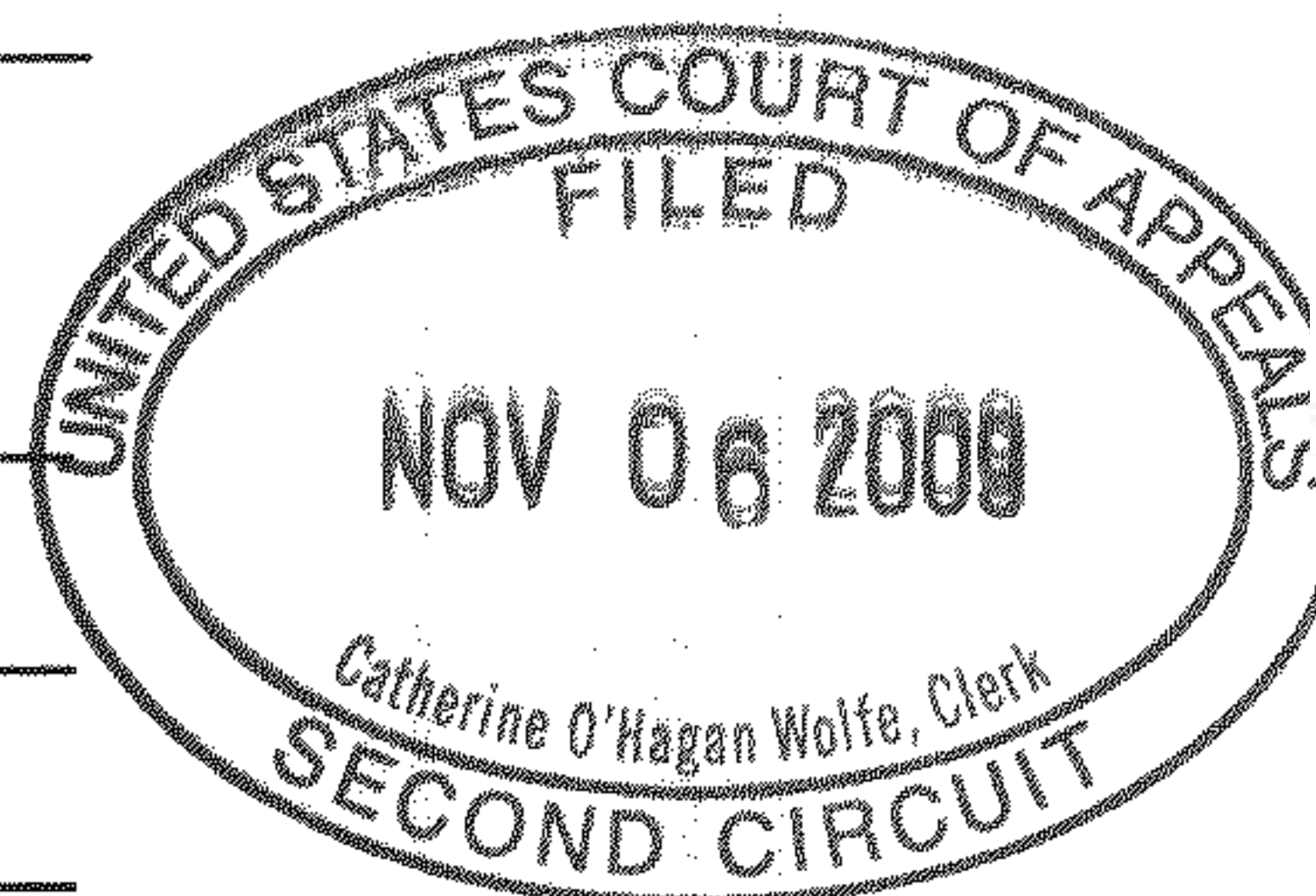
Docket Number(s): 09-2953-cv

In re Calpine

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: March 11, 2010

Motion for: Voluntary Dismissal Pursuant to FRAP 42

Set forth below precise, complete statement of relief sought:
For the reasons stated in the attached affidavit, that the
appeal be voluntarily dismissed pursuant to FRAP 42.



MOVING PARTY: Calpine Corporation

☐ Plaintiff ☐ Defendant
☒ Appellant/Petitioner ☐ Appellee/Respondent

OPPOSING PARTY: Robert Membreno, as Trustee for SAI Trust

MOVING ATTORNEY: Christopher W. Keegan

[name of attorney, with firm, address, phone number and e-mail]
Kirkland & Ellis LLP
555 California Street, Suite 2700
San Francisco, CA 94104
(415) 439-1400
chris.keegan@kirkland.com

OPPOSING ATTORNEY [Name]: Lawrence C. Glynn

[name of attorney, with firm, address, phone number and e-mail]
Lawrence C. Glynn
53-04 193rd Street
Fresh Meadows, New York 11365
(718) 570-3338
glynn04@hotmail.com

Court-Judge/Agency appealed from: U.S. District Court (The Hon. Judge Victor Marrero)

Please check appropriate boxes:

Has consent of opposing counsel:

A. been sought? ☒ Yes ☐ No
B. been obtained? ☐ Yes ☒ No

Is oral argument requested? ☐ Yes ☒ No
(requests for oral argument will not necessarily be granted)

Has argument date of appeal been set? ☐ Yes ☒ No
If yes, enter date

Signature of Moving Attorney

Date: November 6, 2009

FOR EMERGENCY MOTIONS, MOTIONS FOR STAYS AND
INJUNCTIONS PENDING APPEAL:

Has request for relief been made below? ☐ Yes ☐ No

Has this relief been previously sought
in this Court? ☐ Yes ☐ No

Requested return date and explanation of emergency:

Has service been effected? ☒ Yes ☐ No
[Attach proof of service]

ORDER

IT IS HEREBY ORDERED that the motion by Calpine Corp. to withdraw the appeal, on consent, is
GRANTED and the appeal is withdrawn with prejudice.

A True Copy

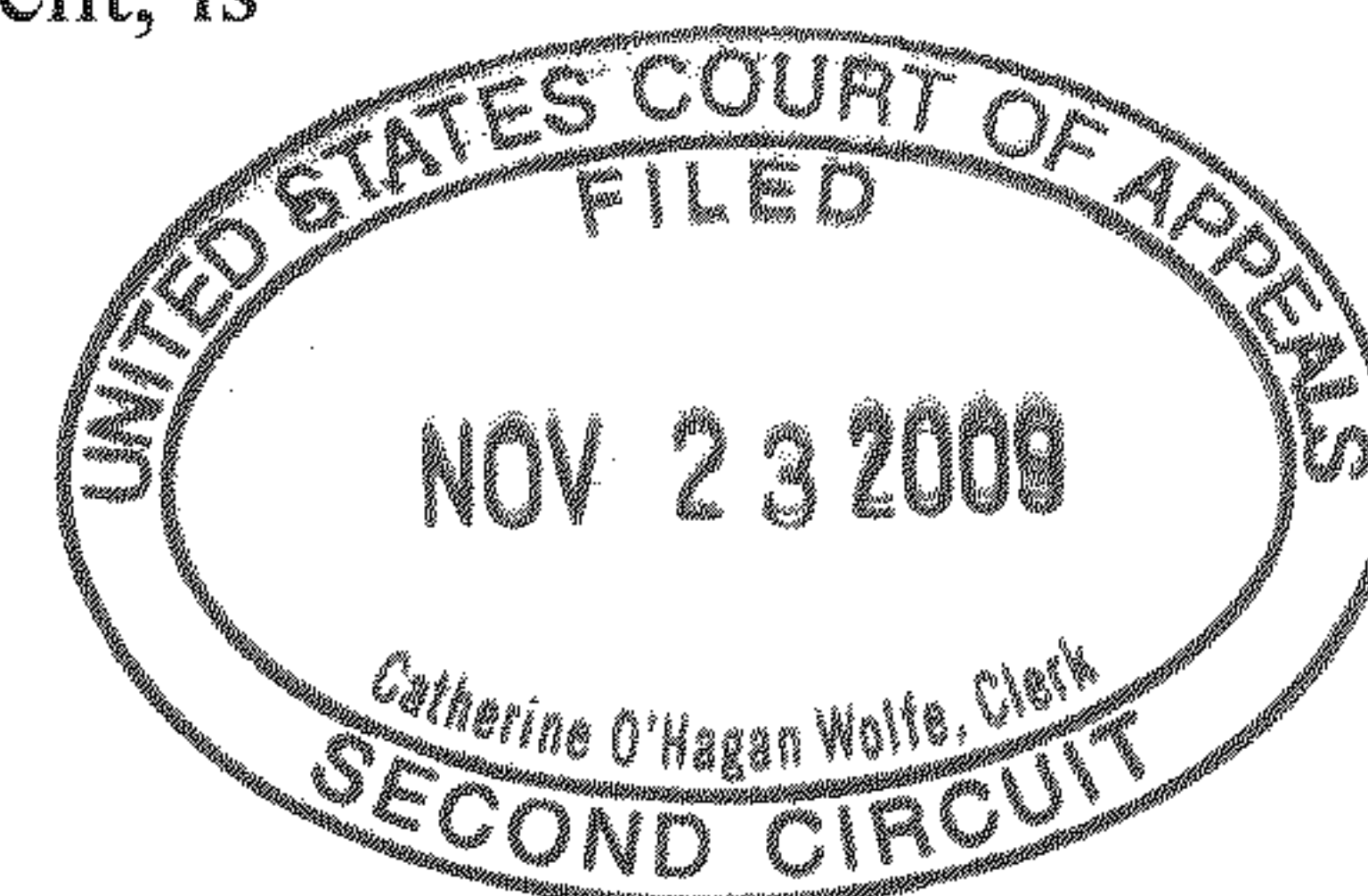
Catherine O'Hagan Wolfe, Clerk

United States Court of Appeals, Second Circuit

Catherine O'Hagan Wolfe

Wolfe, Clerk

Administrative Attorney



MANDATE ISSUED ON 03/11/2010